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7 DISTRICT COURT OF GUAM

8 TERRITORY OF GUAM

9 BANKRUPTCY DIVISION

10 In re

Case No. 02-00022)

ADV. PRO. NO. 02-00013

(Chapter 7))

11 ALAN L. KING,)

12 Debtor(s).)

13
14 OFFICE OF THE UNITED STATES
15 TRUSTEE,)

16 Plaintiff,)

17 vs.)

18 ALAN L. KING,)

19 Defendant.)

20 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

21 On November 10, 2003, the Court approved a Stipulation in this proceeding.

22 According to the terms of the Stipulation, Defendant Alan King agreed to pay \$30,000 to the

23 Chapter 7 Trustee over a period of time with the last payment of \$5,000 due on or before October

24 15, 2005. If the Defendant failed to make timely payment, then judgment would be entered against

25 Defendant. Plaintiff UST has submitted a declaration notifying the Court of Defendant's default

26 under the terms of the Stipulation and seeks judgment in this proceeding pursuant to the terms of the

27 Stipulation. The Court makes the following findings and conclusions.

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1 **I. FINDINGS OF FACT**

2 1. The Plaintiff is the Office of the U.S. Trustee. The UST has standing to bring
3 this complaint under Sections 307 and 727 of the Bankruptcy Code.

4 2. The Defendant is the Debtor, Alan L. King (“King” or “Defendant”).

5 3. King filed a Chapter 7 Petition on January 28, 2002. Bankruptcy Schedules
6 and a Statement of Financial Affairs were filed concurrently on January 28, 2002. Robert Steffy
7 was appointed as the Chapter 7 Trustee.

8 4. The Defendant signed the Petition, Schedules, and Statement of Financial
9 Affairs (together “Bankruptcy Documents”) under penalty of perjury.

10 5. In the Petition, Schedules, and Statement of Financial Affairs, the Defendants
11 made certain disclosures including, but not limited to, the following:

12 a. That his street address was 134 Borja Street in Toto, Guam and that in
13 the previous two years his only other residence was at the Pia Resort
14 in Tumon, Guam;

15 b. That he was employed by Continental Airlines as a pilot and earned
16 gross income of \$13,912 per month;

17 c. That among his expenses was a rent payment of \$1,650 per month;

18 d. That for assets, he did **not** have any tax refund claims and that he did
19 **not** own any interest in any aircraft;

20 e. That in 2001 he had earned gross income of \$192,013.

21 6. Defendant’s disclosures in his bankruptcy Petition, Schedules, and/or
22 Statement of Financial Affairs were false.

23 7. Defendant was entitled to substantial tax refunds in excess of \$10,000.

24 8. At the time of the bankruptcy filing, Defendant held an ownership interest in
25 a 1963 Mooney aircraft which interest was property of the bankruptcy estate.

26 9. Defendant had residential addresses in the two years prior to his bankruptcy
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1 filing that were not disclosed.

2 10. Defendant earned gross income of over \$202,652 in 2001.

3 11. The first meeting of creditors in this case was held on February 26, 2002.
4 Defendant was sworn and testified. Defendant affirmed that the information on his Bankruptcy
5 Pleadings was true. Defendant's testimony was false since his Bankruptcy Pleadings were not
6 accurate.

7 12. Prior to May 2002, Plaintiff inquired with Defendant's counsel about
8 Defendant's ownership interest in the 1963 Mooney aircraft.

9 13. On or about May 23, 2002, Defendant sold his interest in the 1963 Mooney
10 aircraft without prior notification to or approval of Plaintiff, Trustee Steffy or the Court.

11 14. On June 4, 2002, Defendant filed amended Schedule B disclosing his interest
12 in the 1963 Mooney aircraft.

13 15. On November 20, 2002, Defendant filed amended Schedules E, F, I, and J.

14 **II. CONCLUSIONS OF LAW**

15 16. This is a core proceeding. This Court has jurisdiction pursuant to 28 U.S.C. §
16 157 and 28 U.S.C. § 1334.

17 17. Section 727(a)(2) of the Bankruptcy Code authorizes the Court to deny a
18 debtor's discharge if the debtor conceals property of the estate with the intent to hinder, delay, or
19 defraud an officer of the estate. 11 U.S.C. §727(a)(2).

20 18. Based on the facts stated above, Defendant concealed property of the estate,
21 his interest in the 1963 Mooney aircraft and his 2001 income tax refund, from the Chapter 7
22 Trustee. These assets should have been listed in Schedule B of the Bankruptcy Pleadings. Under
23 the circumstances of this case, the Court concludes that Defendant's concealment was done with the
24 intent to hinder, delay, or defraud the Chapter 7 Trustee. Therefore, pursuant to Section 727(a)(2),
25 the Court will deny Defendant's discharge.

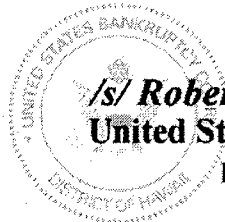
26 19. Section 727(a)(4) of the Bankruptcy Code authorizes the Court to deny a
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1 debtor's discharge if the debtor knowingly and fraudulently makes a false oath or account. 11
2 U.S.C. §727(a)(4).

3 20. Based on the facts above, the Court concludes that Defendant made false
4 oaths and accounts. Specifically, the Defendant made false oaths by: 1) in his Bankruptcy Pleadings
5 stating that he did not own an interest in an aircraft; 2) in his Bankruptcy Pleadings stating that he
6 was not entitled to tax refunds; 3) in his Bankruptcy Pleadings stating that he had earned gross
7 wages \$192,013 in 2001; 4) in his Bankruptcy Pleadings stating that his street address was 134
8 Borja Street in Toto, Guam and that in the previous two years his only other residence was at the Pia
9 Resort in Tumon, Guam; 5) testifying at the meeting of creditors that the information provided in
10 his Bankruptcy Pleadings was correct. Under the circumstances of this case, the Court concludes
11 that these false statements were made knowingly and fraudulently. Pursuant to Section 727(a)(4),
12 the Court will deny Defendant's discharge.

13 **III. CONCLUSION**

14 Therefore, pursuant to Section 727 of the Bankruptcy Code, a Judgment Denying
15 Discharge shall be separately entered.



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19 **/s/ Robert J. Faris**

United States Bankruptcy Judge

Dated: 03/06/2006

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